SAVILLE ROAD, GILDROYD
BARNSLEY

EXTENDED PHASE 1 HABITAT SURVEY

A Report to NPS Barnsley Ltd

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Report Number: RT-MME-114796-01

August 2013

SAVILLE ROAD, GILDROYD
BARNSLEY

EXTENDED PHASE 1 HABITAT SURVEY

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01 OF 02

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This report was compiled by:
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It should be noted that, whilst every effort is made to meet the client's brief,
no site investigation can ensure complete assessment
or prediction of the natural environment.

Contract Number C114796

August 2013

EXECUTIVE SUMMARY

Middlemarch Environmental Ltd was commissioned by NPS Barnsley Ltd to carry out an ecological appraisal of the site of a proposed development at Saville Road, Gildroyd, in Barnsley, South Yorkshire. To fulfil this brief an ecological desk study and an Extended Phase 1 Habitat Survey were undertaken.

One nature conservation site with non-statutory protection, Falthwaite and Lowe Wood LWS, was identified approximately 485 m south. It is not considered that there would be an impact on this site. The desk study identified records of a number of notable and protected species within the local area, including bats, badger, water vole, great crested newt, common lizard and birds.

The Extended Phase 1 Habitat Survey was undertaken on 24th July 2013 by Colin Bundy, Principal Ecological Consultant. This survey identified the presence of amenity grassland, a single building, hardstanding, ornamental planting and scattered trees. The key ecological features on site in relation to the works proposed are the potential of the building to support roosting bats, the intrinsic value of the mature oak and nesting birds.

In order to ensure compliance with wildlife legislation and relevant planning policy, the following recommendations are made:

- **Habitat Loss:** A habitat/species enhancement scheme should be incorporated into the landscaping scheme of any proposed works to maximise the ecological value of the site.
- **Roosting Bats:** The community centre building should be further assessed for the presence of roosting bats.
- **Badgers and other Terrestrial Mammals:** Any excavations on site should either be covered at night, or fitted with suitable mammal ramps.
- **Nesting Birds:** Vegetation clearance should be undertaken outside the nesting bird season. If this is not possible then any vegetation that is to be removed or disturbed should be checked by an experienced ecologist for nesting birds immediately prior to works commencing. If birds are found to be nesting any works which may affect them would have to be delayed until the young have fledged and the nest has been abandoned naturally.

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1. INTRODUCTION

1.1 PROJECT BACKGROUND

In July 2013 NPS Barnsley Ltd commissioned Middlemarch Environmental Ltd to undertake an initial ecological appraisal of the site of a proposed development at Saville Road, Gildroyd, in Barnsley, South Yorkshire. It is understood that the site will be redeveloped for residential housing.

Middlemarch Environmental Ltd has also undertaken an Arboricultural Survey of the site, the results of which are detailed in Report Number RT-MME-114796-02.

To fulfil the above brief to assess the existing ecological interest of the site, a desk study and an Extended Phase 1 Habitat Survey were undertaken.

1.2 SITE DESCRIPTION

The survey site was situated in the low density, residential area of Dodworth, Gildroyd, to the south-west of the town of Barnsley. Open farmland is located within 200 m to the south of the site and the M1 Motorway runs within 500 m east of the site.

The survey site is a small parcel of land located to the north of Saville Road in Gildroyd, Barnsley. The study area extends to approximately 0.33ha in size and it is centred on Ordnance Survey Grid Reference SE 323 046.

The study area is dominated by amenity grassland and it contains a small building, a community centre, in its north-western corner and an area of hardstanding in its south-western corner.

The southern boundary of the study area is defined by Saville Road and a footpath runs along the northern boundary. To the east the study area abuts a parade of shops and to the west it abuts existing residential development.

A large mature oak (*Quercus robur*) tree is located in the north-western corner of the main area of amenity grassland and two over-mature hawthorn (*Crataegus monogyna*) trees are located in a grassed area to the east of the community centre building. In addition to these specimens three flowering cherries (*Prunus* sp.) were located in the south-western corner of the study area and five young silver birch (*Betula pendula*) saplings were scattered throughout the main body of the site.

2. METHODOLOGIES

2.1 DESK STUDY

A desk study was undertaken to determine the presence of any designated nature conservation sites and protected species that have been recorded within a 1 km radius of the site. This involved contacting appropriate statutory and non-statutory organisations which hold ecological data relating to the survey area. Middlemarch Environmental Ltd then assimilated and reviewed the desk study data provided by these organisations.

The consultees for the Desk Study were:

- Natural England - *MAGIC* website for statutory conservation sites;
- Sheffield Biological Records Centre; and
- National Biodiversity Network Gateway website;

The data collected from these consultees is discussed in Section 3. Selected data are provided in Appendix 1. Data from Sheffield Biological Records Centre can be provided upon request.

2.2 EXTENDED PHASE 1 HABITAT SURVEY

An Extended Phase 1 Habitat Survey was conducted following the methodology of the Joint Nature Conservation Committee (JNCC, 2010) and the Institute of Environmental Assessment (IEA, 1995). Phase 1 Habitat Survey is a standard technique for classifying and mapping British habitats. The aim is to provide a record of habitats that are present on site. During the survey, the presence, or potential presence, of protected species was noted. Data recorded during the field survey is discussed in Section 4.

Whilst every effort is made to notify the client of any plant species listed on Schedule 9 of the Wildlife and Countryside Act (1981, as amended) present on site, it should be noted that this is not a specific survey for these species.

3. DESK STUDY RESULTS

3.1 INTRODUCTION

All relevant ecological data provided by the consultees was reviewed and the results from these investigations are summarised below in Sections 3.2 and 3.3. Selected data are provided in Appendix 1.

3.2 NATURE CONSERVATION SITES

Reference to the Multi Agency Geographical Information for the Countryside (MAGIC) website and the local biodiversity information indicates that no nature conservation sites with statutory and one nature conservation site with non-statutory protection occurs within a 1 km radius of the survey area. This site is summarised in Table 3.1.

Site Name	Designation	Proximity to Survey Areas	Description
Non-statutory Sites			
Falthwaite and Lowe Wood	LWS	485 m south	This is a large site with a diverse array of habitats stretching between two former collieries that lie to the north-west of the Wentworth castle estate in the broad shallow valley of the House Carr Dike and its tributaries. Important Species Bluebell (*Hyacinthoides non-scripta*), Dog's Mercury (*Mercurialis perennis*), Yellow Archangel (*Lamiastrum galeobdolon*), Remote Sedge (*Carex remota*), Yellow Pimpernel (*Lysimachia nemorum*), Greater Stitchwort (*Stellaria holostea*), Wood Sorrel (*Oxalis acetosella*), Bush Vetch (*Vicia sepium*) are all present on the site and are considered as ancient woodland indicator species in South Yorkshire. Great crested newt (*Triturus cristatus*) occurs on this site, as well as a number of nationally notable invertebrate species. Breeding UKBAP bird species are dunnock *(Prunella modularis),* bullfinch *(Pyrrhula pyrrhula)* and song thrush *(Turdus philomelos).*
Key: LWS: Local Wildlife Site			

Table 3.1: Summary of Nature Conservation Sites

3.3 PROTECTED SPECIES

Table 3.2 below provides a summary of protected species records within a 1 km radius of the study area. It should be noted that the absence of records should not be taken as confirmation that a species is absent from the search area. Relevant records of UK and local Biodiversity Action Plan species have also been included within this table.

Species	No. of Records	Most Recent Record	Proximity of Nearest Record to Study Area	Species of Principal Importance?	Local BAP?	Legislation / Conservation Status
Mammals						
Unidentified bat *Vespertilionidae* sp.	1	2007	1000 m south	*	✓	ECH2*, ECH 4 WCA 5, WCA 6
Common pipistrelle *Pipistrellus pipistrellus*	6 (of same roost)	2006	920 m west	x	✓	ECH 4 WCA 5, WCA 6
Badger *Meles meles*	1	1996	confidential	x	x	WCA 6, PBA
Water vole *Arvicola amphibious*	1	1981	**	✓	✓	WCA 5
Herpetofauna						
Great Crested Newt *Triturus cristatus*	1	1978	1000 m south	✓	✓	ECH 2, ECH 4, WCA 5
Common lizard *Zootoca vivipara*	2	2011	1000 m south	✓	x	WCA 5 S9(1) WCA 5 S9(5)

Key:
*: Species dependent
** 4 figure grid reference only

ECH2: Annex II of the European Communities Council Directive on the Conservation of Natural Habitats and Wild Fauna and Flora. Animal and plant species of community interest whose conservation requires the designation of Special Areas of Conservation.
ECH4: Annex IV of the European Communities Council Directive on the Conservation of Natural Habitats and Wild Fauna and Flora. Animal and plant species in need of community interest in need of strict protection.

PBA: Protection of Badgers Act 1992

WCA 5: Protected animals (other than birds).
WCA 6: Animals which may not be killed or taken by certain methods.

Species of Principal Importance: Section 41 of the Natural Environment and Rural Communities (NERC) Act 2006: Habitats and Species of Principal Importance in England.
Local BAP: Barnsley Biodiversity Action Plan.

Note. These tables do not includes reference to the Berne Convention (Convention on the Conservation of European Wildlife and Natural Habitats), the Bonn Convention on the Conservation of Migratory Species of Wild Animals or the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).

Table 3.2: Summary of Protected/Notable Species Records Within 1 km Radius of Study Site

In addition to the above protected species, the desk study also identified records of a number of notable bird species including: house sparrow *Passer domesticus*, tree sparrow *Passer montanus*, dunnock *Prunella modularis*, bullfinch *Pyrrhula pyrrhula*, starling *Sturnus vulgaris* and song thrush *Turdus philomelos*. House sparrow, tree sparrow, bullfinch, starling and song thrush have Red Status as birds of high conservation concern on the ôBirds of Conservation Concernô(2009) list, whilst dunnock has amber status, being of medium concern.

3.4 INVASIVE SPECIES

The desk study identified no invasive species records within a 1 km radius of the study area. It should be noted, however, that the absence of records should not be taken as confirmation that a species is absent from the search area.

4. EXTENDED PHASE 1 HABITAT SURVEY

4.1 INTRODUCTION

The results of the Extended Phase 1 Habitat Survey are presented in Section 4.2. An annotated Extended Phase 1 Habitat Survey Drawing (Middlemarch Environmental Ltd Drawing C114796-01-01) is attached in Appendix 2. This drawing illustrates the location and extent of all habitat types recorded on site. Any notable features or features too small to map are detailed using target notes.

The survey was carried out on 24th July 2013 by Colin Bundy, Principal Ecological Consultant. Table 4.1 details the weather conditions at the time of the survey.

Parameter	Condition
Temperature (ºC)	25
Cloud (%)	70
Wind (Beaufort)	F1-2
Precipitation	Dry

Table 4.1: Weather Conditions During Survey Period

4.2 SURVEY CONSTRAINTS

The survey was subject to no constraints.

4.3 HABITATS

The following habitat types were recorded on site during the field survey:

- Amenity Grassland;
- Building;
- Hardstanding;
- Ornamental Planting; and,
- Scattered Trees.

These habitats are described below. They are ordered alphabetically, not in order of ecological importance.

Amenity Grassland

The site was dominated by regularly managed amenity grassland with a short sward. The grassland was species poor with perennial rye grass *Lolium perenne*, meadow grasses *Poa sp.* dandelion *Taraxacum officinale* agg., clover *Trifolium* sp, ribwort plantain *Plantago lanceolata*, meadow buttercup *Ranunculus acris* and creeping buttercup *Ranunculus repens*.

Building

A single building, a community centre, was present being single storey, brick built and with a tiled, pitched roof. Soffit boxing was present at the eaves. The building was in good condition with some minor features including missing verge mortar and a gap under flashing that may provide potential access points for bats.

Hardstanding

Tarmac paths and a small car parking area were present.

Ornamental Planting

A narrow ornamental border was present on the boundary of the survey area and against an adjacent property was present. This was poorly maintained and included elder *Sambucus nigra*, *Fuchsia* sp. and red valerian *Centranthus rubra*.

Scattered Trees

A number of young to mature trees were present within the areas of amenity grass including mature cherry and hawthorn. Most significant was a large, mature oak tree considered of value to a range of local fauna. With the exception of five small dead silver birch *Betula* sp. trees, the trees were recorded as being in good condition. No features such as holes, splits or rot were recorded suitable for fauna including bats or birds to use.

4.4 FAUNA

During the survey field signs of faunal species were noted and mapped. The time of year at which the survey is undertaken will affect species or field signs directly recorded during the survey.

Evidence of the following faunal species was recorded on site during the field survey:

Birds

Jackdaw *Corvus monedula* was recorded on site with house martin *Delichon urbica*, dunnock and goldfinch *Carduelis carduelis* recorded flying over. Of these, house martin and dunnock have amber status as birds of medium conservation concern on the ôBirds of Conservation Concernö(2009) list. The remainder have green status as birds of low conservation concern.

4.5 INVASIVE PLANT SPECIES

No invasive species were recorded on site during the field survey.

5. DISCUSSIONS AND CONCLUSIONS

5.1 SUMMARY OF PROPOSALS

It is understood that the site is to be redeveloped for residential housing resulting in the loss of habitats within the survey area.

5.2 NATURE CONSERVATION SITES

No nature conservation sites with statutory protection were identified within the 1 km search area.

One nature conservation site with non-statutory protection, Falthwaite and Lowe Wood, a Local Wildlife Site (LWS) was recorded. This site was located approximately 485 m south of the survey area and has some connectivity with the proposed development site via amenity grassland within the residential area and open farmland. The proposed development however, is within the existing residential area within generally ecologically poor habitats. Given this, together with the distance and nature of the LWS, it is not considered that there would be any direct or indirect impacts from the proposed development. The LWS is not therefore considered a notable consideration.

5.3 HABITATS

The ecological importance of the habitats present on site is determined by their presence on the list of UK Habitats of Principal Importance and on the Local BAP. It also takes into account the intrinsic value of the habitat e.g. mature trees which cannot easily be replaced. Those habitats which meet any of these criteria and are considered likely to be impacted by the proposals are highlighted as notable considerations. Table 5.1 assesses the value of the habitat in its own right and specifically excludes the value associated with its potential to support protected or notable species. A discussion of the habitat value in relation to protected or notable species can be found in Section 5.4.

Habitat type	UK Habitats of Principal Importance?	Local BAP?	Will habitat be impacted?	Is habitat a notable consideration?
Amenity Grassland	×	×	Yes	No
Building	×	×	Yes	No
Hardstanding	×	×	Yes	No
Ornamental Planting	×	×	Yes	No
Scattered Trees	×	×	Yes	Yes

Table 5.1: Summary of Ecological Importance of Habitats on Site

The mature oak tree is considered to be of high intrinsic ecological value due to its age and maturity and could not be easily replaced in the short to medium term. It is understood that this tree is to be removed as part of the development and as such, it is considered a notable consideration.

All of the other habitats on site are common within the local area, support a limited number of common plant species and can be easily recreated post-development. These habitats are therefore not notable considerations.

5.4 PROTECTED/NOTABLE SPECIES

Table 5.2 and the discussion below consider any species identified within the desk study or where potentially suitable habitat is present.

Species / Species Group	Suitable Habitats Within Survey Area	Could Species be Impacted, if Present?
Bats	Building, Mature Oak	Yes
Badger	None	No
Water Vole	None	No
Great Crested Newt	None	No
Reptiles	None	No
Birds	Scattered Trees	Yes
Botanical	None	No

Table 5.2: Summary of Ecological Importance of Species on Site

Bats

The desk study identified records of bats within the 1 km search area. The building was considered to have the potential to support bats, although no suitable features were recorded associated with the scattered trees. The development will result in the loss of the building which should be subject to further assessment to determine if bats are present. As such bats are a notable consideration in relation to the proposed works and a recommendation is made in Section 6.3.

Badger

The desk study identified a single record of badgers within the 1 km search area. The detailed location of this record is confidential however, it is considered sufficiently distant not to be notable. The habitats at the site were considered of low value for badgers with this being limited to potential foraging within amenity grass, considered unlikely. As such, badgers would not be directly impacted by the current proposals however, badgers and other mammals such as hedgehogs *Erinaceus europaeus,* forage over a wide area and may pass through the proposed works area. As such, a precautionary recommendation is made in Section 6.3 in respect of deep excavations.

Water Vole

The desk study identified 1 record of water vole within the 1 km search area. No suitable habitat for this species exists within or close to the proposed development and as such, it is not considered a notable consideration.

Great Crested Newt

One record of great crested newt was identified by the desk study within the 1 km search area and the desk study also identifies this species as being present within Falthwaite and Lowe Wood LWS. These records are considered sufficiently distant not to be notable in respect of the proposed development. No ponds have been identified within 500 m of the site and habitats on site are considered sub-optimal for this species. Great crested newts are therefore not a notable consideration with respect to the proposed works.

Reptiles

The desk study identified 2 records of common lizard within the 1 km search area. No suitable habitat for reptiles exists within or close to the proposed development and as such, reptiles are not considered a notable consideration.

Birds

The desk study identified records of a number of notable bird species in addition to those recorded during the field visit. The scattered trees were considered to have the potential to support nesting birds, which are protected under the Wildlife and Countryside Act 1981 (as amended). As such this species group is a notable consideration in relation to the proposed works and a recommendation is made in Section 6.3.

Botanical

The habitats at the site were considered species poor botanically and as such no recommendations are made. Invasive plant species are considered in Section 5.5 below.

A summary of legislation relevant to the ecology of the site is included in Appendix 3.

5.5 INVASIVE PLANT SPECIES

The desk study identified no invasive plant species within the 1 km search area, whilst no invasive species were recorded on site during the field survey. Invasive species are therefore not a notable consideration.

6. RECOMMENDATIONS

6.1 NATURE CONSERVATION SITES

There considered to be no impacts on Falthwaite and Lowe Wood LWS and as such no recommendations are made.

6.2 HABITATS

The following recommendations are made regarding the habitats present on site:

- **Habitat Loss & Enhancement:** In accordance with the provision of Chapter 11 of the National Planning Policy Framework (Conserving and Enhancing the Natural Environment) and Local Planning Policy, a habitat/species enhancement scheme should be incorporated into the landscaping scheme of any proposed works to maximise the ecological value of the site. This should include the planting of native trees should the loss of the mature oak tree be unavoidable.

6.3 PROTECTED / NOTABLE SPECIES

The following recommendations are made regarding protected species that are potentially present on site:

- **Roosting Bats:** To ensure compliance with the Wildlife and Countryside Act 1981 (as amended), an initial bat survey should be undertaken on the community centre building which will be impacted by the proposed development works. Initial bat surveys can be completed at any time of year. Should these initial surveys recommend that further activity surveys are required, these further surveys can be undertaken during suitable weather conditions between May and September (inclusive). Ideal activity survey times are in suitable weather conditions between May and August, however surveys in September may be possible but consultation with Natural England / Local Planning Authority is recommended.

- **Badgers and other Terrestrial Mammals:** Any excavations on site should either be covered at night, or fitted with suitable mammal ramps in order to prevent badgers, or any other mammals, from becoming trapped.

- **Nesting Birds:** To ensure compliance with the Wildlife and Countryside Act 1981 (as amended), vegetation clearance should be undertaken outside the nesting bird season. The nesting bird season is weather dependant but generally extends between March and September inclusive. If this is not possible then any vegetation that is to be removed or disturbed should be checked by an experienced ecologist for nesting birds immediately prior to works commencing. If birds are found to be nesting any works which may affect them would have to be delayed until the young have fledged and the nest has been abandoned naturally.

6.4 INVASIVE PLANT SPECIES

No invasive species were recorded on site and so no recommendations are made.

REFERENCES AND BIBLIOGRAPHY

Barnsley Biodiversity Action Plan available: http://barnsleybiodiversity.org.uk/biodiversity.html

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APPENDICES

APPENDIX 1: Desk Study Data

APPENDIX 2: Middlemarch Environmental Ltd Drawing C114796-01-01
Extended Phase 1 Habitat Survey

APPENDIX 3: Overview of Relevant Legislation

APPENDIX 1

Desk Study Data

The data contained in this appendix is confidential and cannot be reproduced.

Multi Agency Geographic Information for the Countryside

Site Check Report

Report generated on Friday 2nd August 2013.

No Results Found

MAGIC

Saville Road. Gildroyd



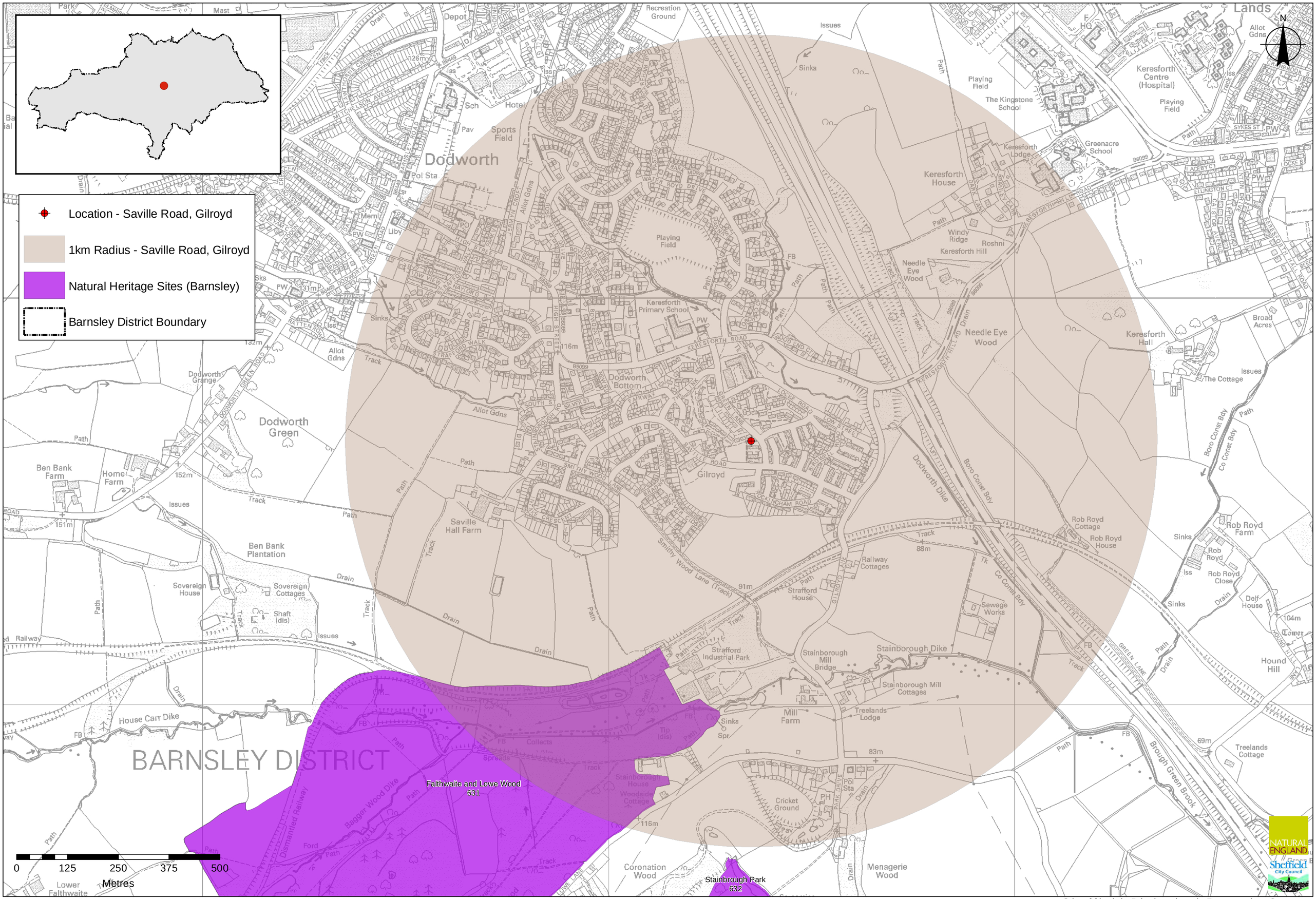
Legend

- Local Nature Reserves (England)
- National Nature Reserves (England)
- Ramsar Sites (England)
- Sites of Special Scientific Interest (England)
- Special Protection Areas (England)

Projection = OSGB36
xmin = 429500
ymin = 403600
xmax = 434500
ymax = 406000
Map produced by MAGIC on 2 August, 2013.
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Statutory and Non-statutory Nature Conservation Sites - Saville Road, Gilroyd

Date - 23 Jul 2013



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APPENDIX 2

Middlemarch Environmental Ltd Drawing C114796-01-01
Extended Phase 1 Habitat Survey



C114796-01-01

Legend

- Site boundary
- Scattered trees
- A — Amenity grassland
- Building
- Hardstanding
- Introduced shrub
- Target notes:

1 Mature oak
2 3 dead small standard birch
3 2 dead small standard birch
4 3 mature cherries
5 2 mature hawthorns

N

Project	Saville Road, Gildroyd
Drawing	Extended Phase 1 Habitat Survey
Client	NPS Barnsley Ltd
Drawing Number: C114796-01-01	Revision: 00
Scale @ A4: 1:500	Date: July 2013
Approved By: CB	Drawn By: SKS

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APPENDIX 3

Overview of Relevant Legislation

GENERAL LEGISLATION AND POLICY OVERVIEW

This section provides an overview of the framework of legislation and policy which underpins nature conservation and is a material consideration in the planning process in England.

CONSERVATION OF HABITATS AND SPECIES REGULATIONS 2010, AS AMENDED (HABITATS REGULATIONS 2010, AS AMENDED)

The Habitats Regulations 2010 consolidate and update the Conservation (Natural Habitats, &c.) Regulations 1994 and all its various amendments. The Habitats Regulations 2010 are the principal means by which the EEC Council Directive 92/43 (The Habitats Directive) as amended is transposed into English and Welsh law.

The Habitats Regulations 2010 place duty upon the relevant authority of government to identify sites which are of importance to the habitats and species listed in Annexes I and II of the Habitats Directive. Those sites which meet the criteria are, in conjunction with the European Commission, designated as Sites of Community Importance, which are subsequently identified as Special Areas of Conservation (SAC) by the European Union member states. The regulations also place a duty upon the government to maintain a register of European protected sites designated as a result of EC Directive 79/409/EEC on the Conservation of Wild Birds (The Birds Directive). These sites are termed Special Protection Areas (SPA) and, in conjunction with SACs, form a network of sites known as Natura 2000. The Habitats Directive introduces for the first time for protected areas, the precautionary principle; that is that projects can only be permitted having ascertained no adverse effect on the integrity of the site. Projects may still be permitted if there are no alternatives, and there are imperative reasons of overriding public interest.

The Habitats Regulations 2010 also provide for the protection of individual species of fauna and flora of European conservation concern listed in Schedules 2 and 5 respectively. Schedule 2 includes species such as otter and great crested newt for which the UK population represents a significant proportion of the total European population. It is an offence to deliberately kill, injure, disturb or trade these species. Schedule 5 plant species are protected from unlawful destruction, uprooting or trade under the regulations.

The Habitats Regulations 2010 were amended in August 2012 to ensure clearer transposition of the provisions of Articles 2, 3, 4(4) (second sentence) and Article 10 of the Wild Birds Directive, by giving additional and specific duties to relevant bodies. A number of amendments were also made to transpose more clearly certain elements of the Habitats Directive.

THE WILDLIFE AND COUNTRYSIDE ACT (WCA) 1981 (AS AMENDED)

The WCA, as amended, consolidates and amends pre-existing national wildlife legislation in order to implement the Bern Convention and the Birds Directive. It complements the Conservation (Natural Habitats. &c.) Regulations 1994 (as amended), offering protection to a wider range of species. The Act also provides for the designation and protection of national conservation sites of value for their floral, faunal or geological features, termed Sites of Special Scientific Interest (SSSIs).

Schedules of the act provide lists of protected species, both flora and fauna, and detail the possible offences that apply to these species. All relevant species specific legislation is detailed later in this Appendix.

THE COUNTRYSIDE AND RIGHTS OF WAY (CROW) ACT 2000

The CROW Act, introduced in England and Wales in 2000, amends and strengthens existing wildlife legislation detailed in the WCA. It places a duty on government departments and the National Assembly for Wales to have regard for biodiversity, and provides increased powers for the protection and maintenance of SSSIs.

The Act also contains lists of habitats and species (Section 74) for which conservation measures should be promoted, in accordance with the recommendations of the Convention on Biological Diversity (Rio Earth Summit) 1992.

THE NATURAL ENVIRONMENT AND RURAL COMMUNITIES (NERC) ACT 2006

Section 40 of the NERC Act places a duty upon all local authorities and public bodies in England and Wales to promote and enhance biodiversity in all of their functions. Sections 41 (England) and 42 (Wales) list habitats and species of principal importance to the conservation of biodiversity. These lists supersede Section 74 of the CRoW Act 2000. These species and habitats are a material consideration in the planning process.

THE HEDGEROW REGULATIONS 1997

The Hedgerow Regulations make provision for the identification of important hedgerows which may not be removed without permission from the Local Planning Authority.

UK BIODIVERSITY ACTION PLAN

The United Kingdom Biodiversity Action Plan (UKBAP), first published in 1994 and updated in 2007, was a government initiative designed to implement the requirements of the Convention of Biological Diversity to conserve and enhance species and habitats. The UKBAP contained a list of priority habitats and species of conservation concern in the UK, and outlined biodiversity initiatives designed to enhance their conservation status. The priority habitats and species correlated with those listed on Section 41 and 42 of the NERC Act.

The UK BAP required that conservation of biodiversity was addressed at a County level through the production of Local BAPs. These are complementary to the UKBAP, however are targeted towards species of conservation concern characteristic of each area. In addition, a number of local authorities and large organisations have produced their own BAPs.

SPECIES AND HABITATS OF MATERIAL CONSIDERATION FOR PLANNING IN ENGLAND

In 2011, the government published the õBiodiversity 2020: A strategy for Englandôs wildlife and ecosystem servicesôto replace the previous England Biodiversity Strategy. In 2012 the UK BAP was itself replaced by the UK Post-2010 Biodiversity Framework.

Previous planning policy (and some supporting guidance which is still current, e.g. ODPM Circular 06/2005, now under revision), refers to UK BAP species as being a material consideration in the planning process. Equally many local plans refer to BAP priority habitats and species. Both remain as material considerations in the planning process but such habitats and species are now described as Species and Habitats of Principal Importance for Conservation in England, or simply priority habitats and priority species under the UK Post-2010 Biodiversity Framework. The list of habitats and species remains unchanged and is still derived from Section 41 list of the Natural Environmental and Rural Communities (NERC) Act 2006. As was previously the case when it was a BAP priority species hen harrier continues to be regarded as a priority species although it does not appear on the Section 41 list.

PLANNING POLICY

NATIONAL PLANNING POLICY FRAMEWORK

In early 2012, the National Planning Policy Framework (NPPF) replaced much previous planning policy guidance, including Planning Policy Statement 9: Biological and Geological Conservation. The government circular 06/05: Biodiversity and Geological Conservation - Statutory Obligations and Their Impact within the Planning System, which accompanied PPS9, still remains valid. A presumption towards sustainable development is at the heart of the NPPF. This presumption does not apply however where developments require appropriate assessment under the Birds or Habitats Directives.

Chapter 11, on conserving and enhancing the natural environment, sets out how the planning system should contribute to and enhance the natural and local environment by minimising impacts on biodiversity and, where possible, provide net gains in biodiversity. Opportunities to incorporate biodiversity gains into a development should be encouraged.

If a proposed development would result in significant harm to the natural environment which cannot be avoided (through the use of an alternative site with less harmful impacts), mitigated or compensated for (as a last resort) then planning permission should be refused.

SPECIES SPECIFIC LEGISLATION

This section contains a summary of legislation with relation to the species present or potentially present in the survey area. The reader should refer to the original legislation for definitive interpretation.

Bats

Bats and the places they use for shelter or protection (i.e. roosts) receive European protection under The Conservation of Habitats and Species Regulations 2010 (Habitats Regulations 2010). They receive further legal protection under the Wildlife and Countryside Act (WCA) 1981, as amended. This protection means that bats, and the places they use for shelter or protection, are capable of being a material consideration in the planning process.

Regulation 41 of the Habitats Regulations 2010, states that a person commits an offence if they:

- deliberately capture, injure or kill a bat;
- deliberately disturb bats; or
- damage or destroy a bat roost (breeding site or resting place).

Disturbance of animals includes in particular any disturbance which is likely to impair their ability to survive, to breed or reproduce, or to rear or nurture their young, or in the case of animals of a hibernating or migratory species, to hibernate or migrate; or to affect significantly the local distribution or abundance of the species to which they belong.

It is an offence under the Habitats Regulations 2010 for any person to have in his possession or control, to transport, to sell or exchange or to offer for sale, any live or dead bats, part of a bat or anything derived from bats, which has been unlawfully taken from the wild.

Whilst broadly similar to the above legislation, the WCA 1981 (as amended) differs in the following ways:

- Section 9(1) of the WCA makes it an offence to *intentionally* (rather than deliberately) kill, injure or take any protected species.
- Section 9(4)(a) of the WCA makes it an offence to *intentionally or recklessly** damage or destroy, *or obstruct access to*, any structure or place which a protected species uses for shelter or protection.
- Section 9(4)(b) of the WCA makes it an offence to *intentionally or recklessly** disturb any protected species *while it is occupying a structure or place which it uses for shelter or protection*.

*Reckless offences were added by the Countryside and Rights of Way (CRoW) Act 2000.

As bats re-use the same roosts (breeding site or resting place) after periods of vacancy, legal opinion is that roosts are protected whether or not bats are present.

The following bat species are listed on the UK BAP and Section 41 of the NERC Act 2006: Barbastelle Bat *Barbastella barbastellus*, Bechstein's Bat *Myotis bechsteini*, Noctule Bat *Nyctalus noctula*, Soprano Pipistrelle *Pipistrellus pygmaeus*, Brown Long-eared Bat *Plecotus auritus*, Greater Horseshoe Bat *Rhinolophus ferrumequinum*, Lesser Horseshoe Bat *Rhinolophus hipposideros*.

Nesting and Nest Building Birds

Nesting and nest building birds are protected under the Wildlife and Countryside Act WCA 1981 (as amended). Some species (listed in Schedule 1 of the WCA) are protected by special penalties.

Subject to the provisions of the Act, if any person intentionally:

- kills, injures or takes any wild bird;
- takes, damages or destroys the nest of any wild bird while that nest is in use or being built; or
- takes or destroys an egg of any wild bird,

he shall be guilty of an offence.

ôRecklessôoffences with regard to the disturbance of nesting wild birds included in Schedule 1 of the WCA were added by the Countryside and Rights of Way Act 2000.

The Natural Environment and Rural Communities (NERC) Act 2006 places as duty on Government Departments to have regard for the conservation of biodiversity and maintains lists of species and habitats which are of principal importance for the purposes of conserving biodiversity in England and Wales. These lists include a number of bird species.

MIDDLEMARCH ENVIRONMENTAL LTD

QUALITY ASSURANCE

TITLE: SAVILLE ROAD, GILDROYD
BARNSLEY

EXTENDED PHASE 1 HABITAT SURVEY

A Report to NPS Barnsley Ltd

Contract Number: C114796

Report Number: RT-MME-114796-01

Revision Number: 00

Description: Final

Date: August 2013

Checked by:

Tim Hextell
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